REMARKS

Claims 34-47 were pending in the application. Claim 41 has been cancelled as directed to unelected subject matter (Group II). Claims 34-36, 38-40 and 42-47 were withdrawn from consideration. Claim 37, the elected species within Group I, was examined on the merits.

The specification was objected to for failing to indicate that the priority filings have been abandoned. The specification has been amended to bring it up to date, so this objection now should be moot.

Claim 37 was rejected under 35 USC 112(2) as being indefinite for the recitation of "less than" and "about", the examiner taking the view that this amounts to a "range within range". The examiner is believed to be mistaken about this because the term "about" has been held to mean "approximate" in the sense of "within the capability of measurement methods". It does not denote a range. However, in order to advance the prosecution of this case applicants have amended all the claims to remove the term "about." This rejection now should be moot.

Claim 37 was rejected under 35 USC 102(b) or 35 USC 103(a) as anticipated by or obvious over Starrett et al. ('214). The examiner urges that '214 teaches a compound "identical to" the claimed structure. Moreover, according to the examiner, even if it did not it still teaches "members of the same genus and/or species". This rejection is not believed to be well founded.

The passage referred to by the examiner as teaching a compound "identical" to the claim 37 structure, i.e., page 5, formula II, does not do so. The examiner is confusing a teaching of a genus with a teaching of a species. The compound of '214 formula II is a generic depiction that fails to teach or suggest the single compound of claim 37. The generic formula II teaches nothing about the phosphonate substituents used by

applicants, nor does it teach which X or B groups to pick to arrive at the compounds in the present claims, among other deficiencies. However, the most noteworthy omission in the '214 disclosure is the absence of any teaching or suggestion of chirality at the P atom, much less that there should be an advantage to be gained from chosing one diastereomer or the other at this site.

The '214 reference fails to teach the chirally enriched diastereomers called for in all of applicant's claims (i.e., enriched diastereomers (3), (5a), (6) or (7)). While '214 does recognize chirality around the aglycon carbon to which X is attached, it fails to teach or suggest any appreciation of chirality at the *P atom*.

The selection of isomer at this atom has a highly significant effect on efficacy of delivery the parental drug PMPA in vivo. The examiner's attention is directed to Figure 3, page 49, and Table 6, page 50, where isomer A (the one for which enrichment is claimed in the instant claims) is always much more effective than isomer B at delivering PMPA to peripheral blood mononuclear cells (PBMCs) in dogs. For example, GS7340-2 is diasteromer (7) in claim 37, whereas the disfavored diasteromer (7a) is GS7339. Diasteromer (7) was more than 4 times more effective at delivering PMPA to the desired target cells than was diasteromer (7a). PBMCs are important because these are reservoirs of HIV in humans and therefore a major therapeutic target.

This rejection is unfounded and applicants respectfully request that it be withdrawn.

If claim 37 is found to be patentable, rejoinder with the remaining claims is requested. All of applicants' arguments with regard to claim 37 are applicable to the remaining claims. They are patentable for the same reasons.

This application is now believed to be in condition for allowance. An early Notice to that effect is solicited.

Respectfully submitted,

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